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UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.

Issued by the Department of Transportation on June 30, 2003

**NOTICE OF ACTION TAKEN -- DOCKET OST 2003-15419- 2**

This serves as notice to the public of the action described below, taken by the Department official indicated (no additional confirming order will be issued in this matter).

Joint Applicants: AEROVIAS de MEXICO, S.A. de C.V. and DELTA AIR LINES, INC.

Date Filed: June 13, 2003

Relief requested: Exemption under 49 U.S.C. 40109 to permit AEROMEXICO to conduct, for a period of one year, scheduled foreign air transportation of persons, property, and mail, between Culiacan, Mexico, and Las Vegas, Nevada.

Exemption under 49 U.S.C. 40109 to permit DELTA to conduct, for a period of two years, scheduled foreign air transportation of persons, property, and mail, between Culiacan, Mexico, and Las Vegas, Nevada, and to combine this exemption authority with all of its existing certificate and exemption authority, consistent with international agreements.

Statement of Authorization under 14 CFR Part 212 to permit AEROMEXICO to carry DELTA's code, for an indefinite duration, on flights operated by AEROMEXICO between Culiacan, Mexico, and Las Vegas, Nevada.

If renewal, date and citation of last action: New authority.

Applicants' representatives: Robert E. Cohn (Delta/202-663-8060) & William C. Evans (AeroMexico/202-371-6030)  
DOT analyst: Allen F. Brown, 202-366-2405

Responsive pleadings: None.

**DISPOSITION**

Action: Approved, subject to conditions (see below).

Action date: June 30, 2003

Effective dates of authority granted: The exemption authority granted to AeroMexico is effective June 30, 2003, through June 30, 2004. The exemption authority granted to Delta is effective June 30, 2003, through June 30, 2005. The Statement of Authorization granted to AeroMexico is effective May 30, 2003, for an indefinite duration.

Basis for approval: The authority granted is consistent with the United States-Mexico Air Transport Services Agreement of August 15, 1960, as amended and extended.

Conditions: Except to the extent exempted or waived, the exemption authority granted to AeroMexico is subject to the terms, conditions, and limitations of our Foreign Air Carrier Standard Exemption Conditions.

Except to the extent exempted or waived, the exemption authority granted to Delta is subject to the terms, conditions, and limitations of Delta's certificates of public convenience and necessity and of our U.S. Carrier Standard Exemption Conditions. Also, this authority is subject to the dormancy notice requirements set forth in condition 7 of Appendix A of Order 88-10-2, and is limited to operations conducted on a code-share basis only. The route integration authority granted to Delta is subject to the condition that any service provided under this exemption shall be consistent with all applicable agreements between the United States and the foreign countries involved. Furthermore, a) nothing in the award of the route integration granted should be construed as conferring upon Delta rights (including fifth-freedom intermediate and/or beyond rights) to serve markets where U.S. carrier entry is limited unless Delta notifies the Department of its

intent to serve such a market and unless and until the Department has completed any necessary carrier selection procedures to determine which carrier(s) should be authorized to exercise such rights; and b) should there be a request by any such carrier to use the limited-entry route rights that are included in Delta's authority by virtue of the route integration authority granted here, but that are not then being used by Delta, the holding of such authority by route integration will not be considered as providing any preference for Delta in a competitive carrier selection proceeding to determine which carrier(s) should be entitled to use the authority at issue.

The code-share authority that we granted to AeroMexico is subject to the following conditions: 1) This Statement of Authorization will remain in effect only as long as AeroMexico and Delta continue to hold the necessary underlying authority to operate the code-share services at issue and their code-share agreement providing for these operations remains in effect. 2) AeroMexico and/or Delta must promptly notify the Department (Office of International Aviation) if the subject agreement providing for these operations is no longer effective or the carriers decide to cease operating any or all of the approved services. (We expect this notice to be received within ten days of such noneffectiveness or of such decision and filed in Docket 2003-15419). 3) The code-share operations conducted under this authority must comply with 14 CFR Part 257 and with any amendments to the Department's regulations concerning code-share arrangements that may be adopted. 4) Notwithstanding any provisions in the contract between the subject carriers, our approval here is expressly conditioned upon the requirements that the subject foreign air transportation be sold in the name of the carrier holding out the service in computer reservation systems and elsewhere; that the carrier selling such transportation (that is, the carrier shown on the ticket) accept responsibility for the entirety of the code-share journey for all obligations established in its contract of carriage with the passenger; and that the passenger liability of the operating carrier be unaffected. 5) The operating carrier shall not permit the code of its U.S. code-share partner to be carried on any flight that enters, departs, or transits the airspace of any area for whose airspace the Federal Aviation Administration has issued a flight prohibition. 6) The code-share authority granted here is specifically conditioned so that neither carrier shall give any force or effect to any contractual provisions between themselves that are contrary to these conditions.

**Action taken by: Paul L. Gretch, Director  
Office of International Aviation**

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Under authority assigned by the Department in its regulations, 14 CFR Part 385, we found that (1) our action was consistent with Department policy; (2) grant of the authority was consistent with the public interest; and (3) grant of the authority would not constitute a major regulatory action under the Energy Policy and Conservation Act of 1975. To the extent not granted/deferred/dismissed, we denied all requests in the referenced Docket. We may amend, modify, or revoke the authority granted in this Notice at any time without hearing at our discretion.

Persons entitled to petition the Department for review of the action set forth in this Notice under the Department's regulations, 14 CFR §385.30, may file their petitions within seven (7) days after the date of issuance of this Notice. This action was effective when taken, and the filing of a petition for review will not alter such effectiveness.

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